UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,008	06/11/2004	David Lawrence Von Kllecck	001345	4007

29569	7590	12/04/2006

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EXAMINER
BUSS, BENJAMIN J

ART UNIT	PAPER NUMBER
2129	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/710,008	VON KLLEECK, DAVID LAWRENCE
	Examiner	Art Unit	
	Benjamin Buss	2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-32* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to an AMENDMENT entered 10/16/2006 for the patent application 10/710,008 filed on 6/11/2004, which claims priority to 60/320,261 filed on **6/11/2003**. The First Office Action of 6/14/2006 is fully incorporated into this Final Office Action by reference.

5   *Status of Claims*

Claims 21-32 are pending.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b)

10   requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP

§ 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate

paper." There are at least eight references in the specification that are **not** in the IDS filed on 6/11/2004. Unless

these references have been cited by the examiner on form PTO-892, they have not been considered.

15   *Specification*

The disclosure is objected to because it is replete with minor informalities, such as the following:

-    ¶65: Change "Genetic Algorithms (Gas)" to -- Genetic Algorithms (GAs) used --. *Note the capitalization of*

    the "A" in "GAs".

Appropriate corrections are required. *Examiner thanks Applicant for the numerous corrections made to the*

20   *specification in the Amendment filed 10/16/2006.*

Claim Objections

Response to Arguments

Applicant's arguments, see page 7, filed 10/16/2006, with respect to the claim objections have been fully

25   considered and are persuasive. The objections to claims 1, 6, 8, 16, & 20 have been withdrawn.

Claim Rejections - 35 USC § 101

Response to Arguments

Applicant's arguments, see page 7, filed 10/16/2006, with respect to the rejection under 35 U.S.C. §101 have been

fully considered and are persuasive. The rejection of claims 6-8 & 20 under 35 U.S.C. §101 as lacking utility has

5   been withdrawn.

Claim Rejections - 35 USC § 112

Response to Arguments

Applicant's arguments, see page 7, filed 10/16/2006, with respect to the rejection under 35 U.S.C. §112, first

10   paragraph, have been fully considered and are persuasive. The rejection of claims 6-8, 15, & 20 under 35 U.S.C.

§112, first paragraph, has been withdrawn.

Claim Rejections - 35 USC § 112

Response to Arguments

15   Applicant's arguments, see page 7, filed 10/16/2006, with respect to the rejection under 35 U.S.C. §112, second

paragraph, have been fully considered and are persuasive. The rejection of claims 6-8, 15, & 20 under 35 U.S.C.

§112, second paragraph, has been withdrawn.

Claim Rejections - 35 USC § 102 / § 103

Response to Arguments

20   Applicant's arguments, see page 7, filed 10/16/2006, with respect to the art rejections of claims 1-20 have been

fully considered and are persuasive. The rejections of canceled claims 1-20 under 35 U.S.C. §102 and §103 have

been withdrawn.

New claims 21-32 have been rejected as detailed below.

25

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

Claims 21-23 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Neuneier** (USPN

6,317,730) and **Zizzamia** (USPAP 2004/0054553) in view of **Tewari** (USPN 6,004,267).

Claims 21:

Neuneier teaches:

- inputting data (C1-8 especially "input data" C5:35-50);

- having a Model identification step review said data and output results (C1-8 especially "output value"

  C4:30-60 and "modeling" C1:1-20 and "membership functions" C4:60-C5:10 and "mapping" C5:25-35 and

  "actual output value of the neural network" C5:55-67);

- having a Model parameter estimation step review said output results (C1-8 especially "training" C5:35-60

  and "parameter" C5:35-60 and "new rule" C2:40-60); and

- outputting final results (C1-8 especially "new fuzzy rule set NFR is thereby characterized by the new neural

  network NNN" C8:1-30)

- where said model identification step comprises identifying by decision nodes (C1-8 especially "neuron"

  C4:30-55) and

- uses artificial neural networks to review said data (C1-8 especially "neural network" throughout),

- where said model parameter estimation step uses machine learning to review said output results (C1-8

  especially "training" C5:35-60 and "learning" C7:45-60).

Neuneier fails to teach:

- the system being for hiring an employee;

- where said results have two states.

Zizzamia teaches:

- the system being for hiring an employee (p1-11 especially "recruiting, hiring and appointing new insurance

    agents" ¶8 and "company would appoint an agent based on the agent's ability to produce future profits and

    increate productivity" ¶14 and "identifying productive and profitable agents" ¶18).

5   Motivation:

      Neuneier and **Zizzamia** are from the same field of endeavor, data processing. It would have been obvious

      to one of ordinary skill in the art at the time of the invention to modify the teachings of **Neuneier** by using

      the system for hiring an employee as taught by **Zizzamia** for the benefit of employing data sources to

      develop a global producer database and model predictive of the future profitability and productivity of

10   licensed professionals such as insurance agents to increase future profits and productivity (**Zizzamia** ¶¶14,

      18, & 21).

The combination of **Neuneier** and **Zizzamia** fails to teach:

- where said results have two states.

Tewari teaches:

15 -   Where said results have two states (C1-21 especially "binary probability predictions" C12:60-C13:5).

Motivation:

      Tewari and the combination of **Neuneier** and **Zizzamia** are from the same field of endeavor, data

      processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to

      modify the combined teachings of **Neuneier** and **Zizzamia** by having two states for the results as taught by

20   **Tewari** for the benefit of representing known status (positive or negative for the feature) (**Tewari** C12:60-

      C13:5).

Claims 29:

Neuneier teaches:

25 -   inputting data (C1-8 especially "input data" C5:35-50);

- having a Model identification step review said data and output results (C1-8 especially "output value"

    C4:30-60 and "modeling" C1:1-20 and "membership functions" C4:60-C5:10 and "mapping" C5:25-35 and

    "actual output value of the neural network" C5:55-67);

- having a Model parameter estimation step review said output results (C1-8 especially "training" C5:35-60 and "parameter" C5:35-60 and "new rule" C2:40-60); and

- outputting final results (C1-8 especially "new fuzzy rule set NFR is thereby characterized by the new neural network NNN" C8:1-30)

5 - where said model identification step comprises identifying by decision nodes (C1-8 especially "neuron" C4:30-55) and

- uses fuzzy inference systems to review said data (C1-8 especially "fuzzy rule set" C4:30-55),

- where said model parameter estimation step uses machine learning to review said output results (C1-8 especially "training" C5:35-60 and "learning" C7:45-60).

10 **Neuneier** fails to teach:

- the system being for hiring an employee;

- where said results have two states.

Zizzamia teaches:

- the system being for hiring an employee (p1-11 especially "recruiting, hiring and appointing new insurance

15 agents" ¶8 and "company would appoint an agent based on the agent's ability to produce future profits and increase productivity" ¶14 and "identifying productive and profitable agents" ¶18).

Motivation:

Neuneier and **Zizzamia** are from the same field of endeavor, data processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of **Neuneier** by using

20 the system for hiring an employee as taught by **Zizzamia** for the benefit of employing data sources to develop a global producer database and model predictive of the future profitability and productivity of licensed professionals such as insurance agents to increase future profits and productivity (**Zizzamia** ¶¶14, 18, & 21).

The combination of **Neuneier** and **Zizzamia** fails to teach:

25 - where said results have two states.

Tewari teaches:

- Where said results have two states (C1-21 especially "binary probability predictions" C12:60-C13:5).

Motivation:

Tewari and the combination of Neuneier and Zizzamia are from the same field of endeavor, data

processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify the combined teachings of Neuneier and Zizzamia by having two states for the results as taught by

5   Tewari for the benefit of representing known status (positive or negative for the feature) (Tewari C12:60-

C13:5).

Claim 22 and 30:

- Where said states are hire and do not hire (*These claims are directed toward non-functional descriptive*

10   *material which does not further limit the claims. Assigning labels or names to the states does not change*

the functionality of the invention).

Claims 23 and 31:

Zizzamia teaches:

15   - Where said data is biographical data (p1-11 especially "historical producer data" ¶19; *This claim is directed*

toward non-functional descriptive material which does not further limit the claims. Assigning labels or

names to the data does not change the functionality of the invention).

Claim Rejections - 35 USC § 103

20   Claims 24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neuneier (USPN 6,317,730),

Zizzamia (USPAP 2004/0054553), and Tewari (USPN 6,004,267) in view of Mascarenhas (USPAP

2002/0029162).

Claim 24 and 32:

25   The combination of Neuneier, Zizzamia, and Tewari fails to teach:

- Where said data is personality data.

Mascarenhas teaches:

- Where said data is personality data (p1-13 especially "Personality Trait Topography" ¶63 and

    "psychological, behavioral, personality, or other attributes" ¶51; *This claim is directed toward non-functional*

    descriptive material which does not further limit the claims. Assigning labels or names to the data does not

5   *change the functionality of the invention).*

Motivation:

Mascarenhas and the combination of **Neuneier, Zizzamia,** and **Tewari** are from the same field of

endeavor, data processing. It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the combined teachings of **Neuneier, Zizzamia,** and **Tewari** by using personality data

10   as taught by **Mascarenhas** for the benefit of matching users with target information such as career

openings (**Mascarenhas** ¶7).

Claim Rejections - 35 USC § 103

Claims 25-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Neuneier** (USPN 6,317,730)

15   in view of **Mascarenhas** (USPAP 2002/0029162).

Claim 25:

Neuneier teaches:

- inputting data (C1-8 especially "input data" C5:35-50);

20   - having a Model identification step review said data and output results (C1-8 especially "output value"

    C4:30-60 and "modeling" C1:1-20 and "membership functions" C4:60-C5:10 and "mapping" C5:25-35 and

    "actual output value of the neural network" C5:55-67);

- having a Model parameter estimation step review said output results (C1-8 especially "training" C5:35-60

    and "parameter" C5:35-60 and "new rule" C2:40-60); and

25   - outputting final results (C1-8 especially "new fuzzy rule set NFR is thereby characterized by the new neural

    network NNN" C8:1-30)

- where said model identification step comprises identifying by decision nodes (C1-8 especially "neuron"

    C4:30-55) and

- uses artificial neural networks to review said data (C1-8 especially "neural network" throughout),

- where said model parameter estimation step uses machine learning to review said output results (C1-8 especially "training" C5:35-60 and "learning" C7:45-60).

Neuneier fails to teach:

5   -   the system being for hiring an employee;

- where said results have two states.

Zizzamia teaches:

- the system being for hiring an employee (p1-11 especially "recruiting, hiring and appointing new insurance agents" ¶8 and "company would appoint an agent based on the agent's ability to produce future profits and
10   increase productivity" ¶14 and "identifying productive and profitable agents" ¶18).

Motivation:

Neuneier and **Zizzamia** are from the same field of endeavor, data processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of **Neuneier** by using the system for hiring an employee as taught by **Zizzamia** for the benefit of employing data sources to
15   develop a global producer database and model predictive of the future profitability and productivity of licensed professionals such as insurance agents to increase future profits and productivity (**Zizzamia** ¶¶14, 18, & 21).

The combination of **Neuneier** and **Zizzamia** fails to teach:

- where said results have three states.

20 **Mascarenhas** teaches:

- where said results have three states (p1-13 especially "three states" ¶24).

Motivation:

Neuneier and **Mascarenhas** are from the same field of endeavor, data processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of **Neuneier** by
25   having three states for the results as taught by **Mascarenhas** for the benefit of accounting for uncertainty in the observation technology (**Mascarenhas** ¶24).

Claim 26:

Mascarenhas teaches:

- Where said states are no not move forward, move forward with caution and move forward (p1-13 especially

5   "selectively upregulated, selectively downregulated, or unchanged" ¶24; *This claim is directed toward non-*

functional descriptive material which does not further limit the claims. Assigning labels or names to the

states does not change the functionality of the invention).

Claim 28:

Mascarenhas teaches:

10   - Where said data is personality data (p1-13 especially "Personality Trait Topography" ¶63 and

"psychological, behavioral, personality, or other attributes" ¶51; *This claim is directed toward non-functional*

descriptive material which does not further limit the claims. Assigning labels or names to the data does not

change the functionality of the invention).

15   *Claim Rejections - 35 USC § 103*

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Neuneier** (USPN 6,317,730) and

Mascarenhas (USPAP 2002/0029162) in further view of **Zizzamia** (USPAP 2004/0054553).

Claim 27:

20   The combination of **Neuneier** and **Mascarenhas** fails to teach:

- Where said data is biographical data.

Zizzamia teaches:

- Where said data is biographical data (p1-11 especially "historical producer data" ¶19; *This claim is directed*

toward non-functional descriptive material which does not further limit the claims. Assigning labels or

25   *names to the data does not change the functionality of the invention).*

Motivation:

Zizzamia and the combination of **Neuneier** and **Mascarenhas** are from the same field of endeavor, data

processing. It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify the combined teachings of **Neuneier** and **Mascarenhas** by using biographical data as taught by

Zizzamia for the benefit of employing data sources to develop a global producer database and model

predictive of the future profitability and productivity of licensed professionals such as insurance agents to

increase future profits and productivity (**Zizzamia** ¶¶14, 18, & 21).

5

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly,

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as

set forth in 37 CFR 1.136(a).

10   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing

date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and

the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to

37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

15   statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-    Scarborough (USPN 7,080,057)

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Claims 21-31 are rejected.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed

25   to Benjamin Buss whose telephone number is 571-272-5831. The examiner can normally be reached on M-F 9AM-

5PM.

As detailed in MPEP 502.03, communications via Internet e-mail are at the discretion of the applicant. Without a written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A paper copy of such correspondence will be placed in the appropriate patent application. The following is a sample

5   authorization form which may be used by applicant:

> "Recognizing that Internet communications are not secure, I hereby
> authorize the USPTO to communicate with me concerning any subject
> matter of this application by electronic mail. I understand that a copy of
> these communications will be made of record in the application file."

10   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent can be reached on 571-272-3080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or

15   Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benjamin Buss
Examiner
Art Unit 2129

20   BB

DAVID VINCENT
SUPERVISORY PATENT EXAMINER